

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
Bureau of Human Resources

August 25, 1994

HUMAN RESOURCES MEMORANDUM 7-94

TO: Agency/Department Heads, Personnel Managers, Directors of
Administrative Services

SUBJECT: Retirement Plan Options/ 5% Salary Option Available On Or After
August 25, 1994 To Confidential Employees Who Are Elected, Who
Are Appointed For A Fixed Term Or Who "Serve At The Pleasure
Of"
Their Appointing Authority

In order to comply with Federal law, State of Maine employees who are employed on or after August 25, 1994 in one of the subject categories must be offered the following options upon employment:

1. The option to join or not join the Maine State Retirement System.
2. If membership in the Maine State Retirement System is selected, the option of State payment of 6.5% of the 7.65% membership cost **OR** a 5% salary premium.
3. If membership in the Maine State Retirement System is not selected, the employee will be deemed to have elected the 5% salary premium, **AND** one of the following federally approved retirement plan options must be selected:
 - (a.) Social Security
 - (b.) One of the State's deferred compensation plans, provided the contribution rate is at least 7.5% of salary.

By provision of Maine State Retirement Law, membership in the Maine State Retirement Plan is optional for Executive Branch employees who are employed in the subject categories. This optional membership is exercised at time of hire. And, pursuant to Chapter 453, Public Law 1981, these employees (and only these employees) are provided the additional option of a 5% salary premium **OR** State payment of part of the employee's contribution rate for membership in the Maine State Retirement Plan. Chapter 453 requires new employees whose membership is optional to elect the option of 5% salary

premium or partial state paid retirement at the time of appointment, and Chapter 739, Public Law 1987 includes this same requirement. Therefore, once the option of 5% salary premium or partial state paid retirement is elected, this option must be continued for the duration of the employee's appointment, even if the employee later makes a voluntary change to membership in the Maine State Retirement Plan.

As example, an employee who joins the Maine State Retirement Plan at time of appointment may later withdraw membership in the Maine State Retirement Plan in accordance with the optional membership law. If this employee's original benefit choice was the 5% salary premium, this salary premium must be continued. If this employee's original benefit choice was partial payment of the employee's contribution rate for membership in the Maine State Retirement Plan, the employee must forfeit this benefit.

Now, by requirement of Federal law, every employee must be a member of a Federally approved retirement plan. Therefore, if employees for whom membership in the Maine State Retirement Plan is optional do not elect membership in the Maine State Retirement Plan at time of appointment, or if they later withdraw from membership, they must participate in one of the alternative plans.

Maine State Retirement Law also provides for delayed membership if employees for whom membership is optional do not join the Maine State Retirement Plan at time of appointment. However, the time from date of appointment to the date of delayed membership may not be used to provide service credit in the Maine State Retirement Plan, and employees must cancel membership in the alternative plan that was selected at time of appointment in order to be eligible for delayed membership in the Maine State Retirement Plan. (Note: Although employees in a deferred compensation retirement plan must cancel this plan prior to delayed membership in the Maine State Retirement Plan, these employees may continue to participate in deferred compensation in accordance with the regulations in effect for state employee participation.) In instances of delayed membership in the Maine State Retirement Plan, the 5% salary premium that was provided at time of appointment must be continued.

Employees for whom membership in the Maine State Retirement Plan is optional may participate in only one retirement plan at a time. Thus, if they withdraw from the Maine State Retirement Plan after appointment, they must provide evidence that they have joined one of the alternative plans. And, if they delay membership in the Maine State Retirement Plan, they must provide evidence that the alternative plan that was selected at time of hire has been cancelled.

In accordance with the retirement plan requirements of Federal law, the Bureau of Human Resources has replaced the 5% salary option form, Per 106. The new form, Per 117, and its alternate, Per 117A, are provided with this

Memorandum. Copy these forms as necessary. They must be processed for all employees who are appointed in the subject categories on or after August 25, 1994.

Without exception, classified bargaining unit employees and classified confidential employees must be members of the Maine State Retirement System and are not eligible for the 5% salary premium option.

Generally, unclassified confidential employees are “serve at the pleasure” employees and are eligible for the retirement plan and 5% salary options specified by this Memorandum, **unless** statutory language specific to the position provides that the employee in the position, although unclassified and confidential, may only be dismissed for cause. In this case, the unclassified confidential employee must be a member of the Maine State Retirement System, and is not eligible for the five percent option or another alternative retirement plan.

With the single exception of Mental Health & Mental Retardation Physicians, the five percent salary option is not available to unclassified bargaining unit employees - generally, the five percent salary option is available to only eligible confidential employees. Mental Health & Mental Retardation Physicians (Professional & Technical Services) may elect to receive the 5% salary premium or State payment of 6.5% of the 7.65% membership cost in the Maine State Retirement System by private and special law. The Per 116 form that is used for this election is unique to the Department of Mental Health & Mental Retardation, and a revised copy of the PER 116 form is provided for this department only.

Finally, employees who hold unclassified bargaining unit positions must be members of the Maine State Retirement System. In a very few instances, however, unclassified bargaining unit positions are subject to specific statutory language that states that the employees in these positions serve at the pleasure of their appointing authority. In these few instances, the employee must be given the option of membership in the Maine State Retirement System or one of the federally approved alternatives. In the absence of any legislation to the contrary, however, the five percent salary option does not apply. A new Form Per 117A is provided for this specific employment condition.

Please make every effort to become familiar with the information in this Memorandum and any special statutes for your department or agency's positions so that you can provide assistance to new hires and ensure that they are fully informed of the options available to them.

Technical questions concerning membership in the Maine State Retirement Plan or the Social Security System should be directed to the Maine State Retirement System.

Thank you for your cooperation.

Nancy J. Kenniston, Director
BUREAU OF HUMAN RESOURCES